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Torture legislation a retreat on human rights

By Tom Lantos

Last night the U.S. Senate voted 65 to 34 for a very bad bill.

The Military Commissions Act of 2006 concerns the treatment of foreign nationals in U.S. custody, and it contains weakened provisions on their rights, and on preventing torture.

The House of Representatives passed its version of the legislation on Wednesday evening, 253 to 168, with members of Congress splitting mostly along party lines. I voted against the measure. A quirk in parliamentary rules will put this issue up for a vote in the House again today.

In considering this legislation, my colleagues and I undertook a debate of great importance to national security and to values of the nation. It centered on a fundamental matter of concern to anyone who cares about human rights – and there are still many of us, thankfully. So this should have been a debate about ideas, and there should have been full and complete deliberation.

Unfortunately, because of an arrogant White House and a Republican leadership that simply bowed to the executive's will – as it has so many times before – we once again made the consideration of a critical legislative initiative a charade, a debate conducted with undue haste and without any serious consideration.

Since Sept. 11, 2001, one of the most vexing problems that has faced our country in the struggle against the forces of nihilism and extremism has been our approach to those who come into our custody because we believe they are a danger to the United States. We have seen unclear policy and muddy thinking leading to cruel treatment of those in U.S. custody, with some conduct even amounting, in the view of the former General Counsel to Department of the Navy under this administration, to be torture. Finally, last June the U.S. Supreme Court ruled that the administration's unilateral set of rules for trying terrorist suspects was unlawful.

Let's make no mistake about it – our treatment of detainees and our failure to come up with a joint approach with our allies has damaged our ability to prosecute successfully the war on terrorism. It has endangered our troops by setting standards for others that I believe we will deeply regret. It has impeded our ability to work with many of our allies who have a different view from this administration on the obligations of the Geneva Convention, one that has since been adopted by our own Supreme Court. And it has undermined our legitimacy worldwide and been a recruiting tool for our enemies.

The legislation on detainee treatment should have been an effort to address these problems, and in some ways it does. It establishes a better framework for trying detainees than the one established by the administration. And by keeping it a crime to engage in serious physical abuse against detainees, the bill prohibits the worst of the abuses that we have seen, including those also banned by the Army's new field manual on interrogation, such as forcing the detainee to be naked; placing hoods or sacks over the head of a detainee or using duct tape over the eyes; applying beatings, electric shock, burns or other forms of physical pain; water-boarding; using dogs during an interrogation; inducing hypothermia or heat injury; conducting mock executions; depriving the detainee of necessary food, water, sleep or medical care.

Unfortunately the legislation remains deeply flawed in more ways than one can describe in a few column inches. It prohibits any detainee from ever raising the Geneva Conventions in any case before any court or military commission, a provision that I fear will be used against our own troops if they are ever captured by an enemy. It takes actions against existing lawsuits and establishes a whole new system for military appeals that is constitutionally suspect, will lead to even more court cases, and could leave us five years from now with exactly the same number of convictions we have under the existing military tribunal system: zero. We should be trying to expedite trials of terrorist suspects, not providing the basis for more delays.

Nearly 60 years ago, I fled from a continent in ruins from a war conducted without rules, marked by atrocities on a scale that the world had never seen. Much of that continent was under a dictatorship in Moscow that was bent on oppressing its citizens and those under its dominance everywhere. So the issues presented by this bill are more than a policy debate to me.

The Geneva Conventions were meant to protect people like me and our country's troops from the worst abuses of war. This country has always stood for the upholding and supporting those protections and expanding them whenever we could, in our national interest.

I am profoundly disappointed by what Congress has done. It does not represent progress in protecting our troops

and civilians who are caught up in armed conflict. It represents a retreat.

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